

just made to further commend the excellent staff that we are fortunate to have here in Congress.

Over the course of the last week, I have had the opportunity to see the Appropriations process at work like few others do. Working around the clock, our negotiations with the House of Representatives and the White House was an all consuming task. Mr. Panetta and OMB Director Raines ably represented the priorities of the White House while Congressmen LIVINGSTON and OBEY did the same for the House.

I wish to highlight the efforts of three people who are the mechanics of this effort. The people who ensure that the decisions that are made are translated into words that are properly included in the bill and report and do what is intended they do.

John Mikel and Dennis Kedzior of the House Appropriations Committee and Jack Conway of the Senate Appropriations Committee are the mechanics that have so developed the confidence of both bodies that we can confidently vote on this large piece of legislation knowing that it is technically correct and properly drafted.

With over 60 years of combined service to the Federal Government, their commitment to the process and making government a better place serves as an example for all who work here.

Mr. President, I suggest the absence of a quorum to be—first of all, Mr. President, what is the time factor remaining?

The PRESIDING OFFICER. The Senator controls 58 minutes 20 seconds; the minority controls 70 minutes.

Mr. HATFIELD. Mr. President, I would suggest the absence of a quorum. I ask unanimous consent that it be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I think under a unanimous-consent agreement I am to be recognized now for 5 minutes. Is that correct?

The PRESIDING OFFICER. That is correct. The Senator is recognized for 5 minutes.

Mr. PRYOR. I thank the Chair for recognizing me.

#### FEDERAL AVIATION ADMINISTRATION AUTHORIZATION

Mr. PRYOR. Mr. President, I stand here this afternoon in the waning hours of this Congress urging our colleagues to support not only the FAA reform authorization bill but to urge with all my heart this body to include

the language adopted by the conference offered by Senator HOLLINGS of South Carolina, the so-called Hollings amendment. I think that we should approach this rationally. I think that we should approach this matter with understanding and certainly with truth, a calm atmosphere. I know it has gotten remarkably emotional in the last several hours.

First, I hope our colleagues will know that this is not some amendment offered by the Senator from South Carolina to make it difficult for unions to organize. It is not a union-bashing amendment. It is nothing of the sort.

Furthermore, in my humble opinion, this was a mistake. It was a mistake when we phased out the Interstate Commerce Commission and moved those areas of concern and jurisdiction to other parts of our Government. Clearly, there was a disclaimer by the Congress and it said in section 10501 of the Interstate Commerce Commission Termination Act—it has been cited in the Chamber by the distinguished Senator from South Carolina. Once again I will cite that language:

The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.

That is precisely what I think this debate is all about. Why the so-called express carrier language was omitted in 1995, I, frankly, do not know. I think it was an error. I think it was a drafting error.

If that be the case, then I think it is incumbent upon this body to cure that error and to set the record straight. I do not believe that one person can be produced who can come and testify before this body, or tell this Senator, or perhaps any other Member of this body, that this was not an error. I do not know who that person is.

That is notwithstanding a report that is being cited freely on the floor of the Senate this afternoon by the American Law Division of the CRS, the Library of Congress.

In all due respect to whomever authored this particular rendition of what they felt the law was, I think that this is, perhaps, one of the most confusing, ambiguous memoranda that I have read from this erstwhile very, very reputable division of the Library of Congress.

This flies also in the face of the staff of the Senate Commerce Committee and also of the staff of the House of Representatives Commerce Committee.

Mr. President, I ask unanimous consent their rendition of what actually happened in this area be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, March 28, 1996.

Hon. ROBERT LIVINGSTON,  
Chairman, Committee on Appropriations,  
Washington, DC.

DEAR BOB: I understand that some questions have been raised recently concerning

the effect of the recently enacted ICC Termination Act on the Railway Labor Act. The new statute replaces the ICC with a Surface Transportation Board at the Department of Transportation. It also explicitly states in 49 U.S.C. 10501(c)(3)(B) the intention of the Congress that the ICC Termination Act is not to change the coverage of any employer or employee under the Railway Labor Act. This was the clear understanding of the Transportation and Infrastructure Committee, the Senate Commerce Committee, and the members of the conference committee. If there are any ambiguities in the new law concerning its effect on the Railway Labor Act, they were created unintentionally. Any such ambiguities should not be allowed to negate the clear intent stated in Section 10501(c)(3)(B).

I hope you find this information useful. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,  
SUSAN MOLINARI,  
Chairwoman, Subcommittee on Railroads.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, July 12, 1996.

Hon. TRENT LOTT,  
Majority Leader,  
U.S. Senate, Washington, DC.

Hon. NEWT GINGRICH,  
Speaker, House of Representatives,  
Washington, DC.

DEAR MR. MAJORITY LEADER AND MR. SPEAKER: We are writing to you to set out the facts regarding a technical error in the ICC Termination Act of 1995, Public Law 104-88. The mistake concerns the context in which the ICC Termination Act addressed the relationship between the economic regulation of transportation under Subtitle IV of Title 49, United States Code, and the Railway Labor Act (45 U.S.C. 151 *et seq.*).

The ICC Termination Act abolished the former Interstate Commerce Commission, reduced economic regulation substantially in both rail and motor carrier transportation, and transferred the reduced but retained regulatory functions to a new Surface Transportation Board, part of the Department of Transportation.

One form of ICC regulatory jurisdiction under the former Interstate Commerce Act was exercised over "express carriers"—as defined in former 49 U.S.C. 10102, a person "providing express transportation for compensation." This was part of the ICC's jurisdiction, since express service originated as an ancillary service connecting with rail freight service.

The Railway Labor Act included in Part I coverage of "any express company . . . subject to the Interstate Commerce Act." [45 U.S.C. 15]

In the ICC Termination Act, economic regulation of express carriers was eliminated from the statutes to be administered by the new Surface Transportation Board, on the ground that this form of regulation was obsolete. (Another category of ICC and Railway Labor Act "carrier"—the sleeping-car company—was similarly eliminated from STB jurisdiction.)

In light of the abolition of economic regulation, the ICC Termination Act contained a conforming amendment (Section 322, 109 Stat. 950) which also struck the term "express company" from the Railway Labor Act definition of a "carrier." Although unaware of any possible effects of this conforming change on the standards applied under the Railway Labor Act, Congress plainly delineated its intent in new Section 10501(c)(3)(B) of Title 49, U.S. Code [109 Stat. 808]: "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage

of employers and employees by the Railway Labor Act."

The apparent contradiction between the legislative intent stated in Section 10501(c)(3)(B) and the conforming Railway Labor Act in Section 322 could be interpreted to alter the legal standards by which companies are determined to be governed, or not governed, by the Railway Labor Act. Therefore, a technical correction is necessary to restore the former Railway Labor Act terminology and thus avoid any inference that is at odds with the clearly stated legislative intent not to alter coverage of companies or their employees under the Railway Labor Act.

We hope that this brief summary of the facts will provide you with information useful in your future deliberations.

Respectfully,

BUD SHUSTER,

*Chairman.*

SUSAN MOLINARI,

*Railroad Subcommittee  
Chairwoman.*

Mr. PRYOR. Mr. President, it is very clear to me that there is, in fact, confusion. But the quickest and best way to eliminate that confusion is to simply support the Hollings amendment, return us to 1995, December, under that particular Act which for 62 years guided and had jurisdiction over "express carriers."

We could go into a long legal argument, and I am sure that legal arguments will be made on the floor of this body as to who is right and who is wrong. The substance of this issue must and should be debated. But now is the time, we think, that we should correct the issue, that we should go back to where we were, that we should once again set the record straight and start from there.

If hearings are needed next year, that is fine. But we should in this legislation support the Hollings amendment to the FAA Authorization and Reform Act.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 10 minutes.

Mr. McCAIN. Mr. President, I believe under the previous unanimous consent agreement I had 10 minutes, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. Then I seek recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Arkansas for his support of the Hollings amendment. I pray, because of the importance of this legislation, that we get an agreement and get moving on this. I again thank the Senator from Arkansas for his continued support and his statement in support of very important legislation. I hope, following the vote on the CR, we will take that bill up and get it resolved tonight. I hope.

# OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I applaud the managers of the bill and the leaders for all the hard work and long hours they have put into crafting this bill. The mere size of this bill alone—if we look at it here, 2,000 pages—is testament to the immense amount of work that they have done.

I also, of course, express my special thanks and appreciation to the Senator from Oregon, Senator HATFIELD, who not only this year but every year for the previous 30 years has done such a magnificent job. He will be sorely missed, not only because of his accomplishments, but because the Senator from Oregon has always, invariably, unwaveringly been a gentleman, and his unfailing courtesy to all of us, even if there is significant disagreement, will not only be long remembered but, I am sure, from time to time deeply missed.

There is much in this bill that merits support. The bill funds six Cabinet departments and hundreds of agencies and commissions. We must fund these departments and keep the Government open and operating. That is our duty.

Before I go on, I also want to pay special thanks to Keith Kennedy, who, again, unfailingly has been courteous and considerate to me for many years now. The work he has done will never be fully appreciated except by those of us who have observed the incredible labors which he has had to go through in satisfying some pretty enormous egos, and balancing the very difficult, competing priorities that exist here. I do not know of anyone who has done the job the way that Keith Kennedy has, not only for the State of Oregon, not only for the Appropriations Committee and not only for the Senate, but for the United States of America.

Mr. President, we also have a duty not to waste the people's money. To spend simply for spending's sake is wrong. It is even more egregious to use the taxpayers' money in a manner designed to reap political and electoral gains. Unfortunately, that has occurred here.

It is common knowledge that as the end of the fiscal year approaches and Congress is forced to take up omnibus bills that must be passed, such legislation tends to be a vehicle for every Member's pet project. The term heard most often is that the bill becomes a "Christmas tree." Mr. President, this bill is definitely a Christmas tree, and a glorious one at that.

I note for the RECORD that those on this side of the aisle, while not without blame for much of the pork in the bill, did attempt valiantly to pass the appropriations bills in the normal fashion. Following the proper procedure would have allowed all the provisions of this bill to be examined and scrutinized in the light of day. Many would have been dropped, others amended or

changed. Now, effectively, we do not have those options.

My colleagues on the other side of the aisle have made it so that this situation is very clear. They would offer a constant stream of nongermane, non-relevant amendments to the appropriations bills. These amendments were designed to further a certain agenda. While such action is allowable under the rules, it was unfortunate and has resulted in the situation we now find ourselves.

I intend to vote against this bill. As I just stated, there is much in the bill that is meritorious and should be funded. However, the bill is indeed a Christmas tree, loaded with pork-barrel projects, and nonrelevant, not appropriate authorizing language. I would like to discuss many of the items I found in this bill that caused me consternation.

When a bill contains earmarks that forces the administration to spend money on one specific project, it denies other worthwhile projects the opportunity to receive funding. The following is a partial list of earmarks that I have found in the bill.

On page 16, the bill earmarks \$1,900,000 for supervision of the Brotherhood of teamsters national election. While I do not question the need for Federal involvement in this matter, there is simply no need to specifically earmark and mandate that this spending occur at this exact level.

On page 92, a special trust fund is established with \$60,000,000 deposited in it, for the payment of money to telecommunications carriers for burdens placed upon them due to law enforcement efforts. While I have always opposed unfunded mandates, many do in fact exist and many companies, especially many small businesses are excessively burdened by such unfunded mandates. I am concerned that while these small businessmen and women continue to be burdened, we are establishing a trust fund to pay some of our Nation's largest, most profitable companies.

This issue certainly merits debate, but not in the context of the underlying legislation. There is no pressing need that forces us to take this action at this time. This is an appropriations bill and if the Senate sees fit to establish such a trust fund, we should do so on other legislation.

This bill also contains language regarding Sallie Mae and library services and numerous other authorizing legislation that should not be here.

Mr. President, on page 126 of the bill, the funding for the Advanced Technology Program of the National Institute of Standards and Technology is funded at a level of \$225,000,000. This number is an increase over the funding previously contained in legislation. This program is nothing but a corporate subsidy program. It is clear case of corporate welfare and I must object to the funding level for this program.